



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: James T. Moore  
Telephone: (703) 308-9797  
Facsimile: (703) 305-0942

MAILED

JUL 9 - 2004

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Applicants: Moore et al.  
Application No.: 09/451,319  
Filed: 11/30/99  
For: Preparation of concentrated  
aqueous bromine solutions and biocidal  
application thereof

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,222.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

A handwritten signature in black ink, appearing to read "James T. Moore", written over a horizontal line.

James T. Moore  
Administrative Patent Judge

Filed by:

James T. Moore  
Administrative Patent Judge  
Board of Patent Appeals and Interferences  
United States Patent and Trademark Office  
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PO Box 1450  
Arlington, VA 22313-1450  
Tel: (703) 308-9797  
Fax: (703) 305-0942

Filed:  
9 July 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge James T. Moore)

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SHUNONG YANG, WILLIAM F. McCOY,  
and  
ANTHONY W. DALLMIER

Junior Party, ✓  
(Patent 6,423,267)

v.

ROBERT M. MOORE  
and  
CHRISTOPHER J. NALEPA

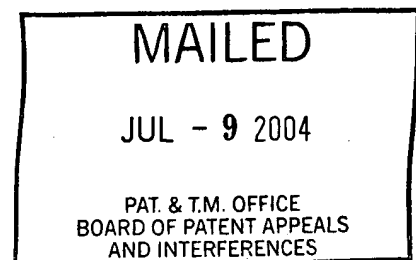
Senior Party,  
(Application 09/451,319).

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Patent Interference No. 105,222 (JTM)

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**DECLARATION**  
(37 CFR § 1.611)



**Part A. Declaration of interference**

An interference is declared (35 U.S.C. 135(a)) between the above-identified parties. Details of the application, patent, count, and claims designated as corresponding or as not corresponding to the count appear in Parts E and F of this NOTICE

DECLARING INTERFERENCE.

**Part B. Judge designated to handle the interference**

Administrative Patent Judge James T. Moore has been designated to handle the interference. 37 CFR § 1.610(a).

**Part C. Standing order**

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

**Part D. Conference call to set dates**

A telephone conference call to set dates for action in this interference is scheduled for **1 p.m. (Eastern) on September 1, 2004** (the call will be initiated from the PTO).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See STANDING ORDER ¶10.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies the NOTICE DECLARING INTERFERENCE. Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a longer period.

**E. The parties involved in this interference are:**

Junior Party:

Named Inventors: SHUNONG YANG, Naperville, Illinois  
WILLIAM F. McCOY, Naperville, Illinois  
ANTHONY W. DALLMIER, Aurora, Illinois

Patent: 6,423,267, issued July 23, 2002, based on  
Application 09/517,760, filed March 2, 2000

Title: STABLE OXIDIZING BROMINE FORMULATIONS,  
METHOD OF MANUFACTURE, AND USES THEREOF  
FOR BIOFOULING CONTROL

Accorded benefit: 09/106,602, filed June 29, 1998

Assignee: NALCO CHEMICAL COMPANY  
ONE NALCO CENTER  
NAPERVILLE IL 60563-1198

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: ROBERT M. MOORE, Baton Rouge, Louisiana  
CHRISTOPHER J. NALEPA, Baton Rouge, Louisiana

Application: 09/451,319, filed November 30, 1999

Title: PREPARATION OF CONCENTRATED AQUEOUS BROMINE  
SOLUTIONS AND BIOCIDAL APPLICATION THEREOF

Accorded Benefit: Application 09/088,300, filed June 1, 1998

Assignee: None

Attorneys: See last page

Address: See last page

**F. Counts and claims of the parties**

Count 1

Claim 14 of US Patent 6,423,267; reproduced below:

14. A stable oxidizing bromine compound prepared by the following steps:

preparing a caustic solution comprising a halogen stabilizer, water and an alkali or alkaline earth metal hydroxide, the halogen stabilizer being selected from the group consisting of R - NH<sub>2</sub>, R - NH - R<sup>1</sup>, R - SO<sub>2</sub> - NH<sub>2</sub>, R - SO<sub>2</sub> - NHR<sup>1</sup>, R - CO - NH<sub>2</sub>, R - CO - NH - R<sup>1</sup> and R - CO - NH - CO - R<sup>1</sup> wherein R is a hydroxy group, an alkyl group or an aromatic group and R<sup>1</sup> is an alkyl group or an aromatic group,

adding bromine to the solution while mixing the solution, and

cooling the solution.

The claims of the parties are:

Yang: Claims 1-37

Moore: Claims 61-70.

The claims of the parties which correspond to Count 1 are:

Yang: Claims 1, 2, 12, 14, 15, 25, 27, and 28.

Moore: Claims 66-70.

The claims of the parties which do not correspond to Count 1, and therefore are not involved in this interference are:

Yang: Claims 3-11, 13, 16-24, 26, and 29-37

Moore: 61-65.

**Part G. Heading to be used on papers**

The following heading shall be used on papers filed in the interference. See STANDING ORDER ¶ 3.5.

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Filed on behalf of [name of party] Paper \_\_\_\_\_<sup>1</sup>  
By: Name of lead counsel  
Name of backup counsel  
Street address  
City, State, and ZIP Code  
Tel:  
Fax:  
email@isp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge James T. Moore)

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SHUNONG YANG, WILLIAM F. McCOY,  
and  
ANTHONY W. DALLMIER

Junior Party,  
(Patent 6,423,267)

v.

ROBERT M. MOORE  
and  
CHRISTOPHER J. NALEPA

Senior Party,  
(Application 09/451,319).

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Patent Interference No. 105,222 (JTM)

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TITLE OF PAPER

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<sup>1</sup> Leave a blank line because the board assigns the paper number.

**H. Summary of dates for taking action**

Times for taking action are set out in the following sections of the STANDING ORDER:

- ¶ 4: date for identifying lead and backup counsel.
- ¶ 5: date for identifying any real party in interest.
- ¶ 6: date for requesting copies of involved and benefit applications and patents.
- ¶ 7: date for accomplishing certain discovery.
- ¶ 8: date for filing clean copy of claims.
- ¶ 9: date for filing clean copy of claims in cases with drawings or claims containing a means plus function limitation.
- ¶ 10: date for filing list of proposed preliminary motions.
- ¶ 13.10.2 dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
- ¶ 14.1.1: date for objecting to admissibility of evidence.
- ¶ 14.2: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
- ¶ 14.3: dates when cross-examination can take place.
- ¶ 15.2: dates for taking action with respect to settlement discussions.

Attached is a spreadsheet indicating dates for these and other events in both the preliminary motion and priority phases.



**I. Order form for requesting file copies**

**FILE COPY REQUEST**  
Interference 105,222 (JTM)

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. \_\_\_\_\_
2. Complete address, including street, city, state, ZIP code and telephone number (do not list a Post Office box because file copies are sent via commercial overnight courier).

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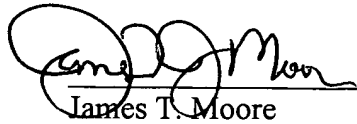
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Telephone, including area code: \_\_\_\_\_

July 9, 2004

**Part J. Signature of administrative patent judge**

  
James T. Moore  
Administrative Patent Judge

Date: 9 July 2004

Enc:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference

Copy of U.S. Patent 6,423,267 B1

Copy of claims of 09/451,319

Revised May 2003

cc (via overnight delivery):

Counsel for Yang:

KELLY L CUMMINGS  
PATENT & LICENSING DEPARTMENT  
NALCO CHEMICAL COMPANY  
ONE NALCO CENTER  
NAPERVILLE IL 60563-1198

Counsel for Moore:

EDGAR E. SPIELMAN  
ALBEMARLE CORPORATION  
451 FLORIDA BLVD.  
BATON ROUGE LA 70801-1765



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JUL 9 - 2004

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Filed: 11/30/99  
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application thereof

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James T. Moore  
Administrative Patent Judge

Filed by:

James T. Moore  
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Board of Patent Appeals and Interferences  
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9 July 2004

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge James T. Moore)

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SHUNONG YANG, WILLIAM F. McCOY,  
and  
ANTHONY W. DALLMIER

Junior Party,  
(Patent 6,156,229)

v.

ROBERT M. MOORE  
and  
CHRISTOPHER J. NALEPA

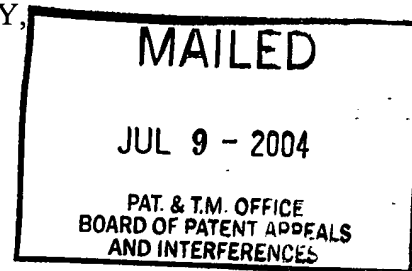
Senior Party,  
(Application 09/451,319).

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Patent Interference No. 105,223 (JTM)

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**DECLARATION**  
(37 CFR § 1.611)



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July 9, 2004

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**Junior Party:**

Named Inventors: SHUNONG YANG, Naperville, Illinois  
WILLIAM F. McCOY, Naperville, Illinois  
ANTHONY W. DALLMIER, Aurora, Illinois

Patent: 6,156,229, issued December 5, 2000, based on  
Application 09/106,602, filed June 29, 1998

Title: STABLE OXIDIZING BROMINE FORMULATIONS,  
METHOD OF MANUFACTURE, AND USES THEREOF  
FOR BIOFOULING CONTROL

Accorded benefit: None

Assignee: NALCO CHEMICAL COMPANY  
ONE NALCO CENTER  
NAPERVILLE IL 60563-1198

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: ROBERT M. MOORE, Baton Rouge, Louisiana  
CHRISTOPHER J. NALEPA, Baton Rouge, Louisiana

Application: 09/451,319, filed November 30, 1999

Title: PREPARATION OF CONCENTRATED AQUEOUS BROMINE  
SOLUTIONS AND BIOCIDAL APPLICATION THEREOF

Accorded Benefit: Application 09/088,300, filed June 1, 1998

Assignee: None

Attorneys: See last page

Address: See last page

**F. Counts and claims of the parties**

**Count 1**

Claim 10 of US Patent 6,156,229; reproduced below:

10. A method of generating a stable oxidizing bromine compound, the method comprising the following steps:

preparing a caustic solution comprising a halogen stabilizer, water and an alkali or alkaline earth metal hydroxide, the halogen stabilizer being selected from the group consisting of R - NH<sub>2</sub>, R - NH - R<sup>1</sup>, R - SO<sub>2</sub> - NH<sub>2</sub>, R - SO<sub>2</sub> - NHR<sup>1</sup>, R - CO - NH<sub>2</sub>, R - CO - NH - R<sup>1</sup> and R - CO - NH - CO - R<sup>1</sup> wherein R is a hydroxy group, an alkyl group or an aromatic group and R<sup>1</sup> is an alkyl group or an aromatic group,

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Moore: 66-70.



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The following heading shall be used on papers filed in the interference. See STANDING ORDER ¶ 3.5.

Paper \_\_\_\_\_<sup>1</sup>

Filed on behalf of [name of party]

By: Name of lead counsel  
Name of backup counsel  
Street address  
City, State, and ZIP Code  
Tel:  
Fax:  
email@isp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge James T. Moore)

SHUNONG YANG, WILLIAM F. McCOY,  
and  
ANTHONY W. DALLMIER

Junior Party,  
(Patent 6,156,229)

v.

ROBERT M. MOORE  
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Patent Interference No. 105,222 (JTM)

TITLE OF PAPER

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Telephone, including area code: \_\_\_\_\_

**Part J. Signature of administrative patent judge**

  
James T. Moore  
Administrative Patent Judge

Date: 9 July 2004

Enc:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference

Copy of U.S. Patent 6,156,229

Copy of claims of 09/451,319

Revised May 2003

cc (via overnight delivery):

Counsel for Yang:

KELLY L CUMMINGS  
PATENT & LICENSING DEPARTMENT  
NALCO CHEMICAL COMPANY  
ONE NALCO CENTER  
NAPERVILLE IL 60563-1198

Counsel for Moore:

EDGAR E. SPIELMAN  
ALBEMARLE CORPORATION  
451 FLORIDA BLVD.  
BATON ROUGE LA 70801-1765